

**PUBLIC CHAPTER NO. 326****SENATE BILL NO. 2054****By McNally, Henry, Williams, Burks, Marrero****Substituted for: House Bill No. 1467****By Fitzhugh**

AN ACT to amend Tennessee Code Annotated, Title 49, relative to local education support groups.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 2, is amended by adding Sections 2 through 11 of this act as a new, appropriately designated part thereto.

SECTION 2. This act shall be known and may be cited as the "School Support Organization Financial Accountability Act".

SECTION 3. The general assembly recognizes the importance of school support organizations in providing financial support to help carry out academic, arts, athletic, and social programs to further educational opportunities for the children of Tennessee. The general assembly also recognizes concerns that parents and other persons who support these organizations have in ensuring that money raised by these organizations is safeguarded by them and used to further the activities for which such money is raised. It is, therefore, the intent of the general assembly to ensure the continued support of academic, arts, athletic and social programs, which help to educate the children of Tennessee, while also ensuring fiscal accountability of school support organizations.

SECTION 4. As used in this part, unless the context otherwise requires:

(1) "Donation" means any gift or contribution of money, materials, property or securities from any nongovernmental source received by a school official or employee for the benefit of a school district, school, school club, or academic, arts, athletic, or social activity related to a school;

(2) "Internal school funds" mean any and all money received and accounted for at individual schools and specifically include, but are not limited to:

(A) Any donation or grant made to the school, a school club, or any academic, arts, athletic, or social activity related to a school;

(B) Funds for cafeteria services operated at the school;

(C) Fees collected by the school;

(D) Funds transferred to the local school from the school board which are to be accounted for at the local school level;

(E) Funds raised through cooperative agreements with outside organizations;

(F) Rental fees charged outside entities for use of school facilities; and

(G) Student activity funds;

(3) "School support organization" means a booster club, foundation, parent teacher association, parent teacher organization, parent teacher support association, or any other nongovernmental organization or group of persons whose primary purpose is to support a school district, school, school club, or academic, arts, athletic, or social activities related to a school which collects or receives money, materials, property or securities from students, parents, or members of the general public. For the purposes of this part, a group of persons who merely request that students, parents, or members of the general public make donations to a school district, school, school club, or academic, arts, athletic, or social activity related to a school shall not be considered a school support organization;

(4) "School representative" means:

(A) When a school support organization's primary purpose is to support a school system or an individual school:

(i) A school board member;

(ii) The director of schools;

(iii) A principal; and

(iv) Any individual who is primarily responsible for accounting for school system funds or the funds of an individual school.

(B) When a school support organization's primary purpose is to support a local school club or academic, arts, athletic, or social activity related to a school:

(i) A school board member;

(ii) The director of schools;

(iii) A principal;

(iv) Any individual who is primarily responsible for accounting for school system funds or the funds of an individual school; and

(v) Any individual who works for the school system and who as a school system employee is charged with directing or assisting in directing the related school club or activity. "School representative" shall specifically include, but shall not be limited to, coaches, assistant coaches, band directors, or any other school sponsor of a related club or activity.

(5) "School support organization funds" include all money, materials, property or securities raised by a school support organization or any organization which represents itself to students, parents or members of the general public to be a school support organization; and

(6) "Student activity funds" include all money received from any source for student activities or events held at or in connection with a school and specifically include, but are not limited to, any money:

(A) Derived from an academic, art, athletic, or social event involving students;

(B) Raised by clubs involving students;

(C) Raised by fundraisers involving students which are under the supervision of a school employee;

(D) Received from a commission for the direct sale of items to students pursuant to a cooperative agreement between the school and an outside organization;

(E) Received for the direct sale of items to students from a bookstore located on school grounds;

(F) Raised from fees charged students;

(G) Obtained from interest from any account which contains student activity funds; or

(H) Obtained from any related school activity which involves the use of school personnel, students, and property during the school day. For the purpose of this section the school day shall be defined as the regular hours of operation of the school during which classes are conducted.

SECTION 5. (a) A school board, director of schools, school principal, or other school official or employee may not authorize a group or organization to use a school district's or school's name, mascot or logos, property or facilities for the raising of money, materials, property or

securities until a policy has been adopted concerning cooperative agreements, school support organizations, and the use of school facilities for fundraising purposes.

(b) The policy that a school board shall adopt pursuant to the provisions of subsection (a) shall at a minimum include, in substance, the following provisions:

(1) Prior to soliciting, raising, or collecting money, materials, property or securities to support a school district, school, school club, or any academic, arts, athletic, or social activity or event related to a school, a school support organization shall submit to the director of schools or the director's designee a form which at a minimum documents the following:

(A) The organization's status as a nonprofit organization, foundation, or a chartered member of a nonprofit organization or foundation;

(B) The goals and objectives of the organization;  
and

(C) The telephone number, address, and position of each officer of the organization;

(2) A school support organization shall annually, at a time designated before the beginning of the school year, submit a form to the director of schools or the director's designee which verifies its continual recognition as a nonprofit entity or foundation and the current telephone number, address, and position of each officer of the organization;

(3) A school support organization shall annually, at a time designated after the end of the school year, provide at a minimum a detailed statement of receipts and disbursements to the applicable school principal;

(4) The school support organization shall maintain a copy of its charter, bylaws, minutes, and documentation of its recognition as a nonprofit organization. Also, a school support organization shall maintain financial records for a period of at least four (4) years;

(5) A school support organization shall operate within the applicable standards and guidelines set by a related state association, if applicable, and shall not promote, encourage or acquiesce in any violation of student or team eligibility requirements, conduct codes or sportsmanship standards;

(6) A school support organization's officers shall ensure that school support organization funds are safeguarded and are

spent only for purposes related to the goals and objectives of the organization. The organization shall adopt and maintain a written policy which specifies reasonable procedures for accounting, controlling and safeguarding any money, materials, property or securities collected or disbursed by it;

(7) The approval of the director of schools or the director's designee shall be required before a school support organization undertakes any fundraising activity. This provision shall also specify the extent to which such approval is required. This provision is to assure that scheduling of fundraisers does not conflict with the school district's or school's fundraising efforts and that the fundraising process is consistent with the goals and mission of the school or school district. All fundraising activities shall comply with state and federal law;

(8) A school support organization shall provide upon request to officials of the local school board, local school principal, or auditors of the office of the comptroller of the treasury access to all books, records, and bank account information for the organization; and

(9) A school representative may not act as a treasurer or bookkeeper for a school support organization. A school representative may not be a signatory on the checks for a school support organization. A majority of the voting members of any school support organization board should not be composed of school representatives.

(c) A local board of education may adopt a policy which is more restrictive than the requirements of subsection (b).

(d) As a result of this policy, the local board of education, director of schools, local school principal or any other school official shall not incur any liability for the failure of a school support organization to safeguard school support organizations funds.

SECTION 6. (a) The director of schools or the director's designee shall annually post or publish a list of organizations that are recognized as school support organizations. This posting or publication may be made by written or electronic means. The school board shall determine the appropriate method of posting or publishing this information.

(b) Any local board of education is authorized to develop a process to certify that an organization has been recognized as a school support organization.

(c) Any forms, annual reports, or financial statements required to be submitted according to the policy adopted by the board pursuant to the provisions of Section 5(b) to the director of schools or the local school principal shall be open to public inspection.

SECTION 7. (a) Any individual who collects or receives any student activity or other internal school funds, shall turn over to the properly designated school official or employee all student activity or other internal school funds. Such funds shall be considered student activity or other internal school funds for the purpose of § 49-2-110. That a member of a school support organization or a person claiming to be a member of a school support organization collected the money is immaterial to the determination as to its status as student activity or other internal school funds.

(b) A local board of education may grant the principal of a school the authority to enter into an agreement with a school support organization to operate and collect money for a concession stand or parking at a related school academic, arts, athletic, or social event on school property where any money it collects or any portion designated by the agreement shall be considered as school support group funds and not as student activity funds; provided, that:

(1) The board has adopted a policy concerning school support organizations pursuant to the provisions of Section 5(b) of this act; and

(2) The school support organization provides the school with the relevant collection documentation which would have been required pursuant to the provisions of the manual produced under § 49-2-110 for student activity funds.

(c) Nothing in this subsection shall diminish the authority of a local board of education to enter into an agreement with a civic organization for the operation of concessions or parking at school sponsored events. Such civic organization shall not be subject to the provisions of this act.

SECTION 8. (a) Donations to a board of education shall be received and disbursed in accordance with the provisions of § 49-6-2006.

(b) In addition to any requirements established by the provisions of § 49-6-2006(a) the following specific conditions shall apply:

(1) Any donation made by a school support organization to a board of education or school shall be disbursed only in accordance with any written conditions that the school support organization may place upon the disbursement of the funds and shall be in accordance with the goals and objectives of the school support organization;

(2) School support organization funds that are donated to an individual school shall not be considered as student activity funds. These funds shall be considered instead as internal school funds from the point of their donation to the respective school; and

(3) Any disbursements of donated funds by a school official or employee shall be made in accordance with any relevant federal, state, or local government laws, including any relevant purchasing laws or requirements of the accounting policy manual produced according to § 49-2-110(e).

SECTION 9. A nongovernmental group or organization including all school support organizations may not:

(1) Use the school's or school district's sales tax exemption to purchase items;

(2) Represent or imply that its activities, contracts, purchases, or financial commitments are made on behalf of or binding upon any school or school district;

(3) Use school support organization funds for a purpose other than ones related to the goals and objectives of the school support organization which shall relate to supporting a school district, school, school club or school academic, arts, athletic, or social activity; or

(4) Maintain or operate a bank account that bears the employer identification number of a school board, school, or any other school related governmental entity. From July 1, 2007, any funds deposited into such an account shall be presumed to be a donation to the entity whose employer identification number is used and shall be treated as student activity funds.

SECTION 10. A school support organization or any group or organization which collects and raises money, materials, property or securities while representing itself to be a school support organization shall be subject to audit by the office of the comptroller of the treasury.

SECTION 11. The office of the comptroller of the treasury is authorized to adopt a model financial policy for school support organizations.

SECTION 12. (a) Sections 5 and 6 of this act shall take effect July 1, 2008, the public welfare requiring it.

(b) All other sections of this act shall take effect July 1, 2007, the public welfare requiring it.

**PASSED: May 21, 2007**



RON RAMSEY  
SPEAKER OF THE SENATE



JIMMY NAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES

APPROVED this 4th day of June 2007



PHIL BREDESEN, GOVERNOR